Robert E. Kelly **Law Offices of Robert E. Kelly, LLC** Two Logan Square 100 N. 18th Street, Suite 300 Philadelphia, PA 19103 215.988.2736 rkelly@robertekelly.com

Attorneys for Defendant Coventry Health Care, Inc.

v.

Nicole Wixted **Drinker Biddle & Reath LLP**One Logan Square, Suite 2000

Philadelphia, PA 19103-6996
(215) 988-2700

nicole.wixted@dbr.com

Attorneys for Defendant Amica Mutual Insurance Company

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

MONTVALE SURGICAL CENTER, LLC,

a/s/o GERALD TYSKA, : Civil Action No.

Plaintiff, : 2:12-cv-06916-JLL-MAH

COVENTRY HEALTH CARE,

AMICA MUTUAL INSURANCE COMPANY : and :

ABC CORP. (1-10), : Defendants :

MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)

PLEASE TAKE NOTICE that on February 15, 2013, Defendants Coventry Health Care, Inc., incorrectly identified as "Coventry Health Care" ("Coventry") and Amica Mutual Insurance Company ("Amica") (collectively, "Defendants"), by and through their undersigned attorneys, shall move before the United States District Court for the District of New Jersey for an Order dismissing Plaintiff's Complaint.

PLEASE TAKE FURTHER NOTICE that in support of said Motion, Defendants shall rely on the enclosed Memorandum of Law.

PLEASE TAKE FURTHER NOTICE that oral argument is requested in the event that this Motion is opposed.

A proposed form of Order is submitted for the Court's convenience.

Respectfully submitted,

s/Robert E. Kelly

Robert E. Kelly Law Offices of Robert E. Kelly, LLC Two Logan Square 100 N. 18th Street, Suite 300 Philadelphia, PA 19103 215.988.2736

rkelly@robertekelly.com

Attorneys for Defendant Coventry Health Care, Inc. Respectfully submitted,

s/ Nicole Wixted

Nicole Wixted Drinker Biddle & Reath LLP One Logan Square, Suite 2000 Philadelphia, PA 19103-6996 (215) 988-2700 nicole.wixted@dbr.com

Attorneys for Defendant Amica Mutual Insurance Company

Dated: February 15, 2013